

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LOKESH MELWANI and CANTAL TRADE
LTD.,

Plaintiffs,

-against-

HUNTER LIPTON, EAGLE POINT
FINANCIAL LLC, and MDF HOLDINGS
LLC,

Defendants.

ORDER

17 Civ. 8308 (PGG) (SLC)

PAUL G. GARDEPHE, U.S.D.J.:

In this breach of contract action, Defendants have moved to dismiss Plaintiff Cantal Trade Ltd.’s claims for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). (Dkt. No. 160) Cantal Trade Ltd. has not opposed the motion.¹

In a January 18, 2022 order, this Court warned that “Cantal Trade Ltd. cannot appear in this lawsuit other than through counsel.” (Dkt. No. 158) No attorney has since appeared on behalf of Cantal Trade Ltd.

A corporate entity cannot appear other than through counsel. See Lattanzio v. COMTA, 481 F.3d 137, 140 (2d Cir. 2007) (“[A] limited liability company . . . may appear in federal court only through a licensed attorney.”); United States ex rel. Mergent Servs. v. Flaherty, 540 F.3d 89, 92 (2d Cir. 2008) (“[A] layman may not represent a corporation even if the sole shareholder.” (citations omitted)); see also Rowland v. Cal. Men’s Colony, Unit II Men’s Advisory Council, 506 U.S. 194, 202-03 (1993). Where, as here, a plaintiff corporation has been repeatedly warned that its claims will be dismissed absent retention of counsel, and it has failed

¹ In a February 10, 2022 letter, pro se Plaintiff Lokesh Melwani responded to the motion, asking this Court “to not enter default judgment against Cantal [Trade Ltd.] at this stage of the proceeding.” (Pltf. Ltr. (Dkt. No. 162))

to appear through counsel, dismissal is appropriate. See, e.g., Liberty Synergistics, Inc. v. Microflo, Ltd., No. 11-CV-523 (JMA) (SIL), 2017 WL 9512403, at *2 (E.D.N.Y. May 11, 2017), report and recommendation adopted, 2017 WL 4119268 (E.D.N.Y. Sept. 18, 2017) (dismissing corporate plaintiff's claims under Fed. R. Civ. P. 41(b) where it had failed to appear through counsel).

Accordingly, Plaintiff Cantal Trade Ltd.'s claims are dismissed for failure to prosecute. The Clerk of Court is directed to terminate the motion (Dkt. No. 160).

Dated: New York, New York
September 19, 2022

SO ORDERED.



Paul G. Gardephe
United States District Judge